

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Gebrian et al

Docket: DCS-9178

Filed: 07/18/2003

Group Art Unit: 1743

Serial No.: 10/623,310

Examiner: Cross, Latoya I.

Title: Random Access Reagent Delivery System
For Use In An Automatic Clinical Analyzer

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION UNDER 37 CFR 1.132

This Declaration forms part of a Response to the Examiner's non-final Office Action dated March 25, 2005, concerning the above identified application and in which claims 1-7 were rejected.

I hereby declare that:

1. My name and title and authorization are as stated below.
2. I understand that this Declaration is intended to overcome a 35 U. S. C. 102(e) rejection of the above identified patent application on the basis that the subject matter of an applied prior art reference (U. S. Patent No. 6,571,934) and the claimed invention were, at the time the invention was made, owned by the same entity or were subject to an obligation of assignment to the same entity.

July 6

3. At the time the claimed invention was made, U. S. Patent No. 6,571,934, titled Bi-Directional Magnetic Sample Rack Conveying System, was assigned to Dade Behring Inc., a corporation of Delaware, having a principal place of business at 1717 Deerfield Road, Deerfield, IL. A copy of such assignment, executed by the inventors thereof, on or about November 16, 2001, is attached to this Declaration.

4. The claimed invention, titled Random Access Reagent Delivery System For Use In An Automatic Clinical Analyzer, was made by two employees of said Dade Behring Inc., during the time frame of about 2002, and that their previously executed Employment Agreement required any inventions made during their employment be assigned to said Dade Behring Inc.

5. Shortly after the time the present application was filed on July 18, 2003, the application identified above was assigned to said Dade Behring Inc. by the inventors. A copy of such assignment, executed by the inventors thereof on or about September 3, 2003, is attached to this Declaration.

6. I believe that this Declaration comprises accurate and sufficient evidence that U. S. Patent No. 6,571,934 and the claimed invention were, at the time the invention was made, owned by the same entity or were subject to an obligation of assignment to the same entity.

7. The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

Dade Behring Inc.

Cynthia G. Tymeson

Signature

07-01-05

Date

CYNTHIA G. TYMESON, ASSISTANT SECRETARY

**Assignment
(Joint Inventors)****DADE BEHRING**

Dade Behring Inc.
1717 Deerfield Road
P.O. Box 778
Deerfield, IL 60015-0778

Serial No. (1) 09/992,917 Filed (1) November 14, 2001

In consideration of ONE DOLLAR and other good and valuable considerations, the receipt and sufficiency whereof are hereby acknowledged, we hereby assign to DADE BEHRING INC. (hereinafter referred to as "assignee"), a corporation of Delaware, having a principal place of business at 1717 Deerfield Rd., #778, DEERFIELD, ILLINOIS 60015-0778, its successor, legal representatives and assigns, the entire right, title and interest throughout the world in our invention or improvements in BIDIRECTIONAL MAGNETIC SAMPLE RACK CONVEYING SYSTEM and in the application for Letters Patent of the United States therefor, executed by each of us individually on the date(s) indicated below and any and all other United States applications and applications in any and all countries which assignor may file, either solely or jointly with others, on said invention or improvements, and in any and all Letters Patent of the United States or of any other country which may be obtained on any of the said applications, and in any reissue or extension thereof.

We hereby authorize and request the Commissioner of Patents to issue said Letters Patent to said DADE BEHRING INC.
We hereby authorize and request the attorneys of record in said application to insert in this assignment the date and serial number of said application when officially known.

We warrant ourselves to be the owners of interest herein assigned and to have the right to make this assignment; and further warrant that there are no outstanding prior assignments, licenses, or other rights in the interest herein assigned.

For said considerations we hereby agree, upon request and at the expense of said assignee, its successors, legal representatives and assigns, to execute any and all divisional, continuation, and renewal applications for said invention or improvements, and any necessary oath or supplemental oath or affidavit relating thereto, and any application for the reissue or extension of any Letters Patent that may be granted upon said application that said assignee, its successors, legal representatives and assigns may deem necessary or expedient, and for the said considerations we further agree, upon the request of assignee, its successors, legal representatives and assigns, in the event of said application or any division thereof, or Letters Patent issued thereon, or any reissue or application for the reissue thereof becoming involved in interference, to cooperate to the best of our ability with said assignee, its successors, legal representatives and assigns in the matters of preparing and executing the preliminary statement and giving and producing evidence in support thereof. We further agree to perform, upon such request, any and all affirmative acts to obtain Letters Patent, and vest all rights therein hereby conveyed in the said assignee, its successors, legal representatives and assigns whereby said Letters Patent will be held and enjoyed by the said assignee, its successors, legal representatives and assigns to the end of the term for which said Letters Patent may be granted as fully and entirely as the same would have been held and enjoyed by us if this assignment and sale had not been made, and for the said considerations assignor hereby also assigns to said assignee, its successors, legal representatives and assigns the entire right, title and interest in said invention or improvements for any and all foreign countries and the right of priority for patent and utility model application in all countries arising under any applicable international convention for the protection of industrial property and/or any internal priority legislation of such countries, and we further agree upon the request of said assignee, its successors, legal representatives and assigns to execute any and all documents that shall be required to be executed in connection with any and all applications for foreign Letters Patent therefor, including the prosecution thereof, and to execute any and all documents necessary to invest title in said foreign applications and patents in said assignee.

WITNESS our hand and seal

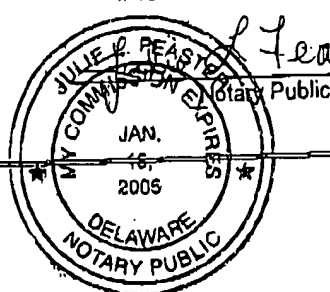
Date 11/16/01 Signature David R. Thompson

(2) Typed Name: David R. Thompson

(4) State of Delaware County of New Castle

Signed before me on this 16th day of November, 2001

by David R. Thompson
Inventor



Date 11/16/01 Signature Tumkur R. Vijay

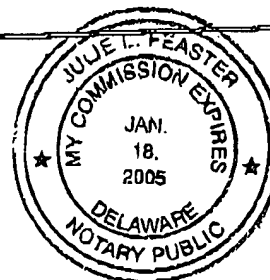
(3) Typed Name Tumkur R. Vijay

(4) State of Delaware County of New Castle

Signed before me on this 16th day of November, 2001

by Tumkur R. Vijay
Inventor

Julie L. Feaster
Notary Public



Date 11/16/01 Signature William D. Dunfee

(3) Typed Name: William D. Dunfee

(4) State of Delaware County of New Castle

Signed before me on this 16th day of November, 2001

by William D. Dunfee
Inventor

Julie L. Feaster
Notary Public



Date 11/16/01 Signature Daniel E. Gillund

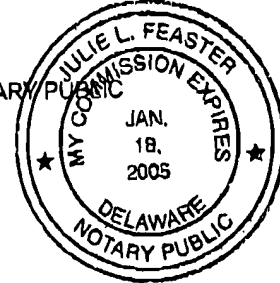
(3) Typed Name: Daniel E. Gillund

(4) State of Delaware County of New Castle

Signed before me on this 16th day of November, 2001

by Daniel E. Gillund
Inventor

Julie L. Feaster
Notary Public



See reverse side for instructions to complete this form.

THIS DOCUMENT MUST BE EXECUTED IN THE PRESENCE OF A NOTARY PUBLIC

**Assignment
(Joint Inventors)**
DADE BEHRING

Dade Behring Inc.
1717 Deerfield Road
P.O. Box 778
Deerfield, IL 60015-0778

Serial No. ⁽¹⁾ 10/623,310 Filed ⁽¹⁾ July 18, 2003

In consideration of ONE DOLLAR and other good and valuable considerations, the receipt and sufficiency whereof are hereby acknowledged, we hereby assign to DADE BEHRING INC. (hereinafter referred to as "assignee"), a corporation of Delaware, having a principal place of business at 1717 Deerfield Rd., #778, DEERFIELD, ILLINOIS 60015-0778, its successor, legal representatives and assigns, the entire right, title and interest throughout the world in our invention or improvements in Random Access Reagent Delivery System For Use In An Automatic Clinical Analyzer and in the application for Letters Patent of the United States therefor, executed by each of us individually on the date(s) indicated below and any and all other United States applications and applications in any and all countries which assignor may file, either solely or jointly with others, on said invention or improvements, and in any and all Letters Patent of the United States or of any other country which may be obtained on any of the said applications, and in any reissue or extension thereof.

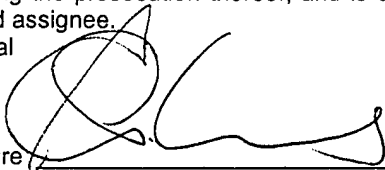
We hereby authorize and request the Commissioner of Patents to issue said Letters Patent to said DADE BEHRING INC.

We hereby authorize and request the attorneys of record in said application to insert in this assignment the date and serial number of said application when officially known.

We warrant ourselves to be the owners of interest herein assigned and to have the right to make this assignment; and further warrant that there are no outstanding prior assignments, licenses, or other rights in the interest herein assigned.

For said considerations we hereby agree, upon request and at the expense of said assignee, its successors, legal representatives and assigns, to execute any and all divisional, continuation, and renewal applications for said invention or improvements, and any necessary oath or supplemental oath or affidavit relating thereto, and any application for the reissue or extension of any Letters Patent that may be granted upon said application that said assignee, its successors, legal representatives and assigns may deem necessary or expedient, and for the said considerations we further agree, upon the request of assignee, its successors, legal representatives and assigns, in the event of said application or any division thereof, or Letters Patent issued thereon, or any reissue or application for the reissue thereof becoming involved in interference, to cooperate to the best of our ability with said assignee, its successors, legal representatives and assigns in the matters of preparing and executing the preliminary statement and giving and producing evidence in support thereof. We further agree to perform, upon such request, any and all affirmative acts to obtain Letters Patent, and vest all rights therein hereby conveyed in the said assignee, its successors, legal representatives and assigns whereby said Letters Patent will be held and enjoyed by the said assignee, its successors, legal representatives and assigns to the end of the term for which said Letters Patent may be granted as fully and entirely as the same would have been held and enjoyed by us if this assignment and sale had not been made, and for the said considerations assignor hereby also assigns to said assignee, its successors, legal representatives and assigns the entire right, title and interest in said invention or improvements for any and all foreign countries and the right of priority for patent and utility model application in all countries arising under any applicable international convention for the protection of industrial property and/or any internal priority legislation of such countries, and we further agree upon the request of said assignee, its successors, legal representatives and assigns to execute any and all documents that shall be required to be executed in connection with any and all applications for foreign Letters Patent therefor, including the prosecution thereof, and to execute any and all documents necessary to invest title in said foreign applications and patents in said assignee.

WITNESS our hand and seal

Date 9/3/2003 Signature 

⁽³⁾ Typed Name: TIMOTHY PATRICK EVERS

⁽⁴⁾ State of Delaware County of New Castle

Signed before me on this 3 day of Sept, 2003

by Timothy Patrick Evers

Kimberly G. Payne Inventor

Notary Public

My Commission Expires

on 1 April, 2004

Notary Public

Date 9/3/2003 Signature 

⁽³⁾ Typed Name: PETER LOUIS GEBRIAN

⁽⁴⁾ State of Delaware County of New Castle

Signed before me on this 3 day of Sept, 2003

by Peter Louis Gebrian

Kimberly G. Payne Inventor

Notary Public

My Commission Expires

on 1 April, 2004

Notary Public

DADE BEHRING

Notary Public
My Commission Expires
on 1 April, 2004